

# Dan Kapanke

Wisconsin State Senator - 32nd District



Senator Kapanke's testimony on Hammes Bill (AB 564)  
Assembly Committee on Judiciary and Ethics  
Public Hearing, 225 NW, November 6, 2007, 9:00 a.m.

- Thank you Chairman Gundrum and Committee members for the opportunity to testify on AB 564, the Assembly companion to LRB 2094/2
- Thank you to members of the Hammes family for coming down. The members of the family are his parents, Steve and Pat Hammes, grandmother Betty Hammes, and niece Annmarie Lounsborough.
- Background:
  - On Sept. 24, 2005 Seth Hammes, a high school senior, was videotaping wildlife near rural Little Falls, Wisconsin for the upcoming bow hunting season when he was shot by a squirrel hunter.
  - Russell Schroeder, the hunter, had borrowed a firearm to go out hunting.
  - Seeing movement and thinking it was a squirrel, Schroeder fired two shots then heard someone yell.
  - The subsequent police investigation and images captured on the videotape showed that after the realization a person had been shot, the hunter approached the victim. Mr. Schroeder indicated that while there was no cell phone service, he would get help for Seth.
  - **THAT DID NOT HAPPEN.** Instead, Mr. Schroeder left the scene and did not report the incident to the authorities.
  - Russell Schroeder, by his lack of action, denied Seth the chance for survival.
    - He failed in all aspects of relevant statutes, specifically, *Wisconsin State Statue 29.341(1)*, to provide contact information, to call for help or render assistance, and notify local law enforcement, thus denying Seth the possibility of rescue.
- Reasons for legislative change:
  - If you use a dangerous weapon that **accidentally** causes injury or death you should be held to the same level of responsibility for causing accidental injury or death with a motor vehicle.
  - Definition of "**dangerous weapon**" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon, as defined in s. 941.295 (4); or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
  - Provides a clarification to statutory language, which would require a person to render assistance to a victim whom they had **accidentally** injured with a dangerous weapon.
  - Makes the penalties for a failure to provide aid or render assistance in relation to an accidental injury with a dangerous weapon the same as for a motor vehicle accident.

- Individuals who accidentally inflict injuries with dangerous weapons like guns or a bow and arrow should not be held to a lesser standard than people who accidentally injure others with automobiles.
- **There should be the same level of responsibility/process to report an accident with a dangerous weapon as you would have to follow if the accident had been caused with an automobile.**
- The creation of s. 940.245 would group other statutes relating to crimes that threaten life or bodily security together, instead of having it in Chapter 29, which is titled "Wild Animals and Plants."
- Thus, the new statute would be more accessible to the law enforcement community.
- This bill would more succinctly codify pertinent statutes into Chapter 940, which pertains to crimes against life and bodily security.

- **This legislation does the following:**

- If enacted the bill would make the penalties for leaving the scene of an accidental injury with a dangerous weapon, the same as leaving the scene of a car accident.
- It also mirrors the responsibilities for providing assistance and reporting the injuries to authorities in the case of an automobile accident.
- Any person who knowingly injures, or should know, that an injury or death occurred to another person with a dangerous weapon is required to give his or her name to the injured person, render assistance to the person, obtain immediate medical care for the person, and report the incident to a local law enforcement agency.
- A person who fails to do so is guilty of:
  - A Class A misdemeanor if the violation involved injury to a person but the person did not suffer great bodily harm; **"Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.**
  - A Class E felony if the violation involved injury to a person and the person suffered great bodily harm; **"Great bodily harm" means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.**
  - A Class D felony if the violation involved death to a person.
- This bill also removes a provision of the statutes that leaving the scene of a motor vehicle is a felony if the accident involved injury, but not great bodily harm.
  - This repeal cleans up language regarding which "hit and run" accidents are felonies
  - Elimination of Wis. Stat. sec. 346.74 (5) (e) does NOTHING to change the penalties for improperly leaving the scene of an automobile accident where a person is injured.
  - The legislature enacted 346.74(5) (e) at a time when the penalties were more severe than the law now provides for hit and runs

- After a court ruling, the legislature LOWERED the penalty for improperly leaving the scene of an accident causing injury to misdemeanor level penalties.
- For that reason, the language of 346.74(5) (e) clarifying that the crime is a felony is no longer accurate, and the subsection should be repealed to avoid confusion.

- Again, thank you Chairman Gundrum and Committee members for the opportunity to testify on AB 564.
- I would be happy to answer any questions Committee members may have.

